MONTANA LEGISLATIVE HISTORY

Chapter 491 19 79

Bill HB 571 S _____ Original bill & history ✓ C

H. Committee on State Administration

Hearing Date(s) 2/16 ___C

ex 2/19 ___C

_____ ___C

_____ ___C

Date Out _____ ___C

S. Committee on Public Health, Welfare & Safety

Hearing Date(s) 3/14 ___C

ex 3/14 ___C

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Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

CHAPTER NO. 491

HOUSE BILL NO. 571

INTRODUCED BY MENAHAN

IN THE HOUSE

February 5, 1979	Introduced and referred to Committee on State Administration.
February 21, 1979	Intent statement attached.
	Committee recommend bill do pass as amended. Report adopted.
	Printed and placed on members' desks.
February 22, 1979	Second reading, do pass.
	Considered correctly engrossed.
February 23, 1979	Third reading, passed. Transmitted to second house.

IN THE SENATE

February 23, 1979	Introduced and referred to Committee on Public Health, Welfare, and Safety.
March 15, 1979	Committee recommend bill be concurred in as amended. Report adopted.
March 17, 1979	Motion pass consideration.
March 19, 1979	Second reading, concurred in.
March 22, 1979	Third reading, concurred in as amended.

IN THE HOUSE

March 22. 1979	Returned from second house. Concurred in as amended.
March 23, 1979	On motion, consideration passed until the 71st Legislative Day.
March 29, 1979	Second reading, amendments adopted.
March 30, 1979	Third reading, amendments adopted. Sent to enrolling.
	Reported correctly enrolled.

HOUSE BILL NO. 571

INTRODUCED BY Members By Request

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A BOARD OF PHYSICAL THERAPY EXAMINERS AND GENERALLY REVISING THE PHYSICAL THERAPY LAWS; AMENDING SECTIONS 2-8-103, 37-11-101, 37-11-103, 37-11-201, 37-11-202, 37-11-301, 37-11-303, 37-11-307 THROUGH 37-11-309, AND 37-11-321, MCA; AND PROVIDING AN EFFECTIVE DATE."

WHEREAS, the practice of physical therapy within the state of Montana is a privilege granted by legislative authority and is not a right of individuals; and

WHEREAS, it is necessary and in the best interests of the health, safety, and welfare of the people of Montana to provide laws covering the granting of licenses and their regulation so that the public may be protected from the unprofessional, unauthorized, or unqualified practice of physical therapy and to license only competent physical therapists to practice physical therapy.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Board of physical therapy examiners. (1) There is a board of physical therapy examiners.

LC 0762/01

(2) The board consists of three members appointed by the governor, upon the recommendation of the Montana chapter of the American physical therapy association, for a term of 3 years.

(3) Each member must have been a resident of Montana and a practicing physical therapist for the 3 years preceding appointment to the board, but need not be a member of the Montana chapter of the American physical therapy association.

(4) Within 30 days following [the effective date of this act], the governor shall make initial appointments to the board of physical therapy examiners. He shall appoint one member each to hold office for terms of 1 year, 2 years, and 3 years, respectively. At the end of each member's appointed term, a member shall be appointed for a full 3-year term.

(5) Ninety days prior to the end of the board member's term of office the Montana chapter of the American physical therapy association shall submit to the governor a list of individuals qualified to serve as a member of the board. The list shall contain not less than three times the number of candidates needed to fill the vacancies.

(6) A vacancy on the board must be filled in the same manner as the original appointment, except that the names of qualified individuals must be submitted to the governor upon

notice of a pending vacancy or within 10 days after a vacancy occurs. These appointments may only be made for the unexpired portions of the term.

(7) No member may be appointed for more than two consecutive terms.

(8) The governor may remove any board member for negligence in performance of any duty required by law and for incompetence or unprofessional or dishonorable conduct.

(9) A board member is not liable to civil action for any act performed in good faith in the execution of the duties required by Title 35, chapter 11.

(10) The board shall provide for its organizational structure by rule, which shall include a chairman, vice-chairman, and secretary-treasurer.

(11) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121.

Section 2. Section 2-8-103, MCA, is amended to read:

"2-8-103. Agencies to terminate. (1) The following agencies shall terminate on July 1, 1979:

(a) board of abstracters, department of professional and occupational licensing, created by 2-15-1643;

(b) board of public accountants, department of professional and occupational licensing, created by 2-15-1641;

(c) board of architects, department of professional

and occupational licensing, created by 2-15-1651;

(d) state banking board, department of business regulation, created by 2-15-1803;

(e) state electrical board, department of professional and occupational licensing, created by 2-15-1654;

(f) board of professional engineers and land surveyors, department of professional and occupational licensing, created by 2-15-1653;

(g) office of commissioner of insurance and the insurance department, state auditor's office, created by 2-15-1902 and 2-15-1903;

(h) office of the investment commissioner, state auditor's office, created by 2-15-1901;

(i) board of landscape architects, department of professional and occupational licensing, created by 2-15-1652;

(j) board of county printing, department of community affairs, created by 2-15-1102;

(k) board of plumbers, department of professional and occupational licensing, created by 2-15-1655;

(l) board of real estate, department of professional and occupational licensing, created by 2-15-1642;

(m) state board of warm air heating, ventilation, and air conditioning, department of professional and occupational licensing, created by 2-15-1656;

(n) board of institutions, department of institutions, created by 2-15-2303.

(2) The following agencies shall terminate on July 1, 1981:

(a) commission for human rights, department of labor and industry, created by 2-15-1706;

(b) board of athletics, department of professional and occupational licensing, created by 2-15-1661;

(c) board of barbers, department of professional and occupational licensing, created by 2-15-1625;

(d) board of chiropractors, department of professional and occupational licensing, created by 2-15-1613;

(e) board of cosmetologists, department of professional and occupational licensing, created by 2-15-1626;

(f) board of dentists, department of professional and occupational licensing, created by 2-15-1606;

(g) board of hearing aid dispensers, department of professional and occupational licensing, created by 2-15-1616;

(h) board of massage therapists, department of professional and occupational licensing, created by 2-15-1627;

(i) Montana state board of medical examiners, department of professional and occupational licensing,

created by 2-15-1605;

(j) board of morticians, department of professional and occupational licensing, created by 2-15-1619;

(k) board of nursing, department of professional and occupational licensing, created by 2-15-1610;

(l) board of nursing home administrators, department of professional and occupational licensing, created by 2-15-1611;

(m) board of optometrists, department of professional and occupational licensing, created by 2-15-1612;

(n) board of osteopathic physicians, department of professional and occupational licensing, created by 2-15-1607;

(o) board of pharmacists, department of professional and occupational licensing, created by 2-15-1609;

(p) board of podiatry examiners, department of professional and occupational licensing, created by 2-15-1608;

(q) board of psychologists, department of professional and occupational licensing, created by 2-15-1617;

(r) board of radiologic technologists, department of professional and occupational licensing, created by 2-15-1614;

(s) board of speech pathologists and audiologists, department of professional and occupational licensing,

HB 571

created by 2-15-1615;

(t) board of veterinarians, department of professional and occupational licensing, created by 2-15-1618;

(u) board of veterans' affairs, department of social and rehabilitation services, created by 2-15-2202.

(3) The following units of state government shall terminate on July 1, 1983:

(a) board of aeronautics, department of community affairs, created by 2-15-1103;

(b) state board of hail insurance, department of agriculture, created by 2-15-3003;

(c) board of horseracing, department of professional and occupational licensing, created by 2-15-1662;

(d) board of livestock, department of livestock, created by 2-15-3102;

(e) board of milk control, department of business regulation, created by 2-15-1802;

(f) board of oil and gas conservation, department of natural resources and conservation, created by 2-15-3303;

(g) Montana outfitters council, department of fish and game, created by 2-15-3403;

(h) public service commission, department of public service regulation, created by 69-1-102;

(i) board of sanitarians, department of professional and occupational licensing, created by 2-15-1631;

(j) board of water and wastewater operators, department of health and environmental sciences, created by 2-15-2105;

(k) board of water well contractors, department of professional and occupational licensing, created by 2-15-1632.

(4) The following unit of state government shall terminate on July 1, 1985: board of physical therapy examiners, created by [section 1]."

Section 3. Section 37-11-101, MCA, is amended to read:

"37-11-101. Definitions. Unless the context requires otherwise, in this chapter the following definitions apply:

(1) "Physical therapy" means the evaluation, treatment, and instruction of ~~a bodily or mental condition of a person~~ human beings to detect, assess, prevent, correct, alleviate, and limit physical disability, bodily malfunction and pain, injury, and any bodily or mental conditions by the use of ~~the physical, chemical, and other properties of heat, light, water, electricity, massage, and therapeutic exercise, including physical rehabilitation procedures~~ therapeutic exercise and rehabilitative procedures for the purpose of preventing correcting, or alleviating a physical or mental disability.

(2) "Physical therapist" or "physiotherapist" means a person who practices physical therapy.

(3) "Physical therapy student" or "physical therapy intern" means an individual enrolled in an accredited physical therapy curriculum and who, as part of his professional, educational, and clinical training, is practicing in a physical therapy setting under the direction, guidance, and observation of a licensed physical therapist.

(4) "Physical therapy assistant" means a person who is a graduate of an accredited curriculum approved by the board and who assists a physical therapist in the practice of physical therapy and whose activities require an understanding of physical therapy.

(5) "Physical therapy aide" means a person who aides in the practice of physical therapy and whose activities require on-the-job training and supervision by a licensed physical therapist who must be available for periodic checks during any procedure or treatment involving a patient.

~~(3)~~(6) "Board" means the ~~Montana--state~~ board of ~~medical~~ physical therapy examiners provided for in ~~2-15-1605~~ [section 1].

~~(4)~~(7) "Department" means the department of professional and occupational licensing provided for in Title 2, chapter 15, part 16.

(8) "Hearing" means the adjudicative proceeding concerning the issuance, denial, suspension, or revocation

of a license, after which the appropriate action toward an applicant or licensee is to be determined by the board."

NEW SECTION. Section 4. Physical therapy -- practiced under referral -- treatment. (1) Physical therapy is practiced under referral from physicians, osteopaths, dentists, and podiatrists and includes the administration, interpretation, and evaluation of tests and measurements of bodily functions and structures, the establishment and modification of treatment, and consultative, educational, and other advisory services, and instruction and supervision of supportive personnel.

(2) Treatment employs, for therapeutic effects, physical measures, activities and devices, for preventive and therapeutic purposes, exercises, rehabilitative procedures, massage, mobilization, and physical agents including but not limited to mechanical devices, heat, cold, air, light, water, electricity, and sound.

NEW SECTION. Section 5. Equivalent terms. "Physical therapy practitioner", "physical therapy specialist", "physiotherapy practitioner", or "manual therapists" are equivalent terms, and any derivation of the above or any letters implying the above are equivalent terms; any reference to any one of them in this chapter includes the others but does not include certified corrective therapists or massage therapists.

HB 571

NEW SECTION. Section 6. Supervision of physical therapist assistants. A physical therapist assistant must practice under the direct supervision of a licensed physical therapist who is responsible for and participates in a patient's care.

Section 7. Section 37-11-103, MCA, is amended to read:

"37-11-103. Restrictions on scope of practice. ~~(1)~~ Nothing in this chapter shall be construed as authorizing a physical therapist, whether licensed or not, to practice medicine, osteopathy, or chiropractic, dentistry, or podiatry; nor shall Title 37, chapter 11, be construed to limit or regulate any other business or profession or any services rendered or performed in connection with physical therapy.

~~(2) The use of roentgen rays and radium for diagnostic and therapeutic purposes and the use of electricity for surgical purposes, including cauterization, are not authorized under the term "physical therapy" as used in this chapter.~~"

Section 8. Section 37-11-201, MCA, is amended to read:

"37-11-201. ~~Rulemaking~~ General powers -- rulemaking power -- records. (1) The board may:

(a) adopt rules to carry this chapter into effect; ;

(b) grant, suspend, and revoke licenses;

(c) issue subpoenas requiring the attendance of witnesses or the production of books and papers; and

(d) take any other disciplinary action necessary to protect the public.

(2) The board shall:

(a) examine applicants for licenses twice a year at reasonable places and times determined by the board;

(b) review the qualifications of applicants who are approved for examination for licensure; and

(c) conduct written examinations that measure the qualifications of individual applicants along with any oral or practical examinations when determined by the board to be appropriate.

~~(2)~~(3) The department shall keep a record of the board's proceedings under this chapter and a register of persons licensed under it. The register shall show the name of every living licensed physical therapist, his last-known place of business, last-known place of residence, and the date and number of his license and certificate as a licensed physical therapist.

~~(3)~~(4) The department shall, during the month of April every year in which the renewal of licenses is required, compile a list of licensed physical therapists authorized to practice physical therapy in the state and shall mail, upon request, a copy of that list to the superintendent of every known hospital and every person licensed to practice

LC 0762/01

medicine and surgery in the state. An interested person in the state is entitled to obtain a copy of the list on application to the department and payment of an amount not in excess of the cost of the list so furnished.

(5) The department may change addresses and surnames on the licensee's records only on the specific written request by the individual licensee."

Section 9. Section 37-11-202, MCA, is amended to read:

"37-11-202. Investigation and report of violations. (1) The board shall:

(a) investigate every ~~supposed~~ alleged violation of this chapter coming to its notice; ~~and shall~~

(b) report to the proper authority all cases that, in the judgment of the board, warrant prosecution;

(c) formulate a written complaint process for the use in reporting alleged violations;

(d) assist the proper county attorney or the attorney general in the prosecution of all persons who violate any provision of Title 37, chapter 11.

(2) The attorney general shall serve as attorney for the board."

NEW SECTION. Section 10. Travel expense -- deposit of fees. (1) Each board member shall be reimbursed for travel expenses as provided for in 2-18-501 through 2-18-503 for each day actually engaged in the duties of his office.

(2) All fees collected by the department shall be deposited in the earmarked revenue account for the use of the board, subject to 37-1-101(6). The department shall keep an accurate account of funds received and expenditures made from the account.

(3) The board of medical examiners shall transfer funds in the earmarked revenue account collected after January 1, 1979, which were derived from the examination and licensure or relicensure of physical therapists in this state to the earmarked account designated as the "physical therapist account".

Section 11. Section 37-11-301, MCA, is amended to read:

"37-11-301. Unauthorized representation as licensed therapist. A person who is not licensed under this chapter as a physical therapist or whose license has been suspended or revoked or whose license has lapsed and has not been revived who uses in connection with his name the words or letters "L.P.T.", "Licensed Physical Therapist", "P.T.", "Physical Therapist", "R.P.T.", "Registered Physical Therapist", or any other letters, words, or insignia indicating or implying that he is a licensed physical therapist or who in any way, orally or in writing or in print or by sign, directly or by implication, represents himself as a physical therapist shall be guilty of a

HB 571

misdemeanor."

Section 12. Section 37-11-303, MCA, is amended to read:

"37-11-303. Qualifications of applicants for license. To be eligible for a license as a physical therapist, an applicant must:

(1) be of good moral character and at least 18 years of age;

(2) have graduated from a an accredited school of physical therapy approved by the ~~council of medical education and hospitals of the American medical association~~ board;

(3) either:

(a) pass to the satisfaction of the board an examination to determine his fitness for practice as a physical therapist; or

(b) be entitled to a license without examination under 37-11-307."

Section 13. Section 37-11-307, MCA, is amended to read:

"37-11-307. Applicants licensed in other states. The board may, in its discretion, authorize the department to ~~register~~ license as a physical therapist, without examination, on the payment of the required fee, not to exceed $100, as established by the board, an applicant for

license who is a physical therapist licensed under the laws of another state or territory if the requirements for a license for physical therapists in the state or territory in which the applicant was licensed were at the date of his license substantially equal to the requirements in force in this state. However, the board may require a written, oral, or practical examination."

Section 14. Section 37-11-308, MCA, is amended to read:

"37-11-308. Annual renewal of license -- fee. A licensed physical therapist shall, during January, apply to the department for a renewal of his license and pay a fee of ~~$5~~ not to exceed $50 which shall be set by board rule. A license that is not renewed before April every year automatically lapses. The board may, in its discretion, revive and renew a lapsed license on the payment of all past unpaid renewal fees or a late renewal fee."

Section 15. Section 37-11-309, MCA, is amended to read:

"37-11-309. Temporary license. (1) On payment to the department of a fee ~~of $10~~ not to exceed $100 which shall be set by board rule and the submission of a written application on forms provided by it, the department shall issue, without examination, a temporary license to practice physical therapy in this state for a period not to exceed 1

year to a person who meets the qualifications set forth in 37-11-303, on submission by the person of evidence satisfactory to the board that he is in this state on a temporary basis to assist in a case of medical emergency or to engage in a special physical therapy project.

(2) On the submission of a written application on forms provided by it, the department shall issue a temporary license to a person who has applied for a license under this chapter and who is, in the judgment of the board, eligible to take the examination provided for in 37-11-303. This temporary license is available to an applicant only with respect to his first application for a license under 37-11-307, or to a foreign-trained physical therapist, and the license expires when the board makes a final determination with respect to the application."

NEW SECTION. Section 16. Foreign-trained applicants. The foreign-trained physical therapist applicant's transcripts will be evaluated by the board. The board will compare the applicant's transcript to the standards set by the American physical therapy association. If the applicant's professional education credit hours are approved by the board, and the school the applicant attended was approved by the American physical therapy association at the time the applicant attended, the applicant is eligible for a temporary license prior to examination.

Section 17. Section 37-11-321, MCA, is amended to read:

"37-11-321. Refusal to issue or renew license. The board, after due notice and hearing, may refuse to license any applicant, and may refuse to renew, may suspend, may revoke or take lesser disciplinary action on the license of any licensed person who:

(1) is habitually intoxicated or is addicted to the use of narcotic drugs;

(2) has been convicted of violating any state or federal narcotic law, subject to chapter 1, part 2 of this title;

(3) is, in the judgment of the board, guilty of immoral or unprofessional conduct as defined by board rule;

(4) has been convicted of any crime involving moral turpitude, subject to chapter 1, part 2 of this title;

(5) is guilty, in the judgment of the board, of gross negligence in his practice as a physical therapist;

(6) has obtained or attempted to obtain ~~registration~~ licensure by fraud or material misrepresentation;

(7) has been declared to be seriously mentally ill by a court of competent jurisdiction and has not thereafter been released from treatment and declared not to be seriously mentally ill;

(8) has treated or undertaken to treat ailments of

HB 571

human beings otherwise than by physical therapy; or

~~(9) has undertaken to practice physical therapy independent of prescription from a person who holds an unlimited license to practice medicine and surgery in Montana and other states and territories.~~

(9) is guilty, in the judgement of the board, of conduct unbecoming a person licensed as a physical therapist or of conduct detrimental to the best interests of the public; or

(10) has practiced physical therapy beyond the scope and limitation of his training and education."

NEW SECTION. Section 18. Display of license. Each licensee shall display his original license or an official duplicate issued by the department and a renewal certificate in a conspicuous place in the principal office where he practices physical therapy. A reproduction displayed in lieu of the above is not authorized unless such reproduction is signed and notarized by a notary public.

Section 19. Saving clause. A license to practice physical therapy issued prior to the effective date of this act remains in effect for the period of its validity but upon expiration may be renewed only in accordance with this act.

Section 20. Codification. (1) Section 1 is intended to be codified as an integral part of Title 2, chapter 15, part

16, and the provisions contained in Title 2, chapter 15, part 16, apply to section 1.

(2) Sections 4 through 6, 10, 16, and 18 are intended to be codified as an integral part of Title 37, chapter 11, and the provisions contained in Title 37, chapter 11, apply to sections 4 through 6, 10, 16, and 18.

Section 21. Effective date. This act is effective on passage and approval.

-End-

HOUSE STATE ADMINISTRATION COMMITTEE - House Bills

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 567	Mt. Con. Amendment to change the term of office of a member of the Mt. House from 2 years to 4 years	2/5/79	Magone, et all	2-15-79	Do Pass	2-17
HB 570	to require that new motor vehicle dealers be licensed also with the Dept. of Business reg.; providing for an earmarked revenue acct.; raising license fees for manufacturers, dist., factory branches, and distributor branches	2/5/79	Menahan	F.C. 2-6 2-16-79	Do Pass	2-17
HB 571	creating a board of physical therapy examiners & generally revise the laws relative to physical therapy	2/5/79	Menahan	2-16-79	As Amended Do Pass	2-19
HB 574	to amend section 61-4-102, MCA, to raise the motor vehicle dealer registration fee to $45.	2/5/79	Day	F.C. 2-6 2-16-79	Do Pass	2-17
HB 576	to make unlawful the discharge of an employee because the employee has made complaint or instituted a proceeding under the law - providing for discharge hearing procedures and remedies	2/5/79	Harper	2-19-79	Do Not Pass	2-19
HB 579	providing that an employee separated from employment shall receive his final paycheck on the next regular payday for the pay period during which he was terminated or 15 days from termination date - whichever comes first	2/6/79	Fagg, Dozier, Manning	2-20-79 ~~2-21-79~~	Do Pass	2-20

STATE ADMINISTRATION COMMITTEE
House of Representatives

February 16, 1979

Chairman Brand called the hearing to order at 8:00 a.m., Rep.'s O'Connell and Azzara were excused.

HB 574-Sponsored by Rep. Day -- This is a single little bill -- all it does is raise the initial fee that dealers pay for the first two dealer plates.

LARRY MAGERIS-Administrator, Motor Vehicle Division -- A bill was passed last session requiring us to license and inspect dealers once a year. For $45 they receive two plates and then the next ones are $5, and from then on they are $2. There are some costs later on if we determine that the man doesn't qualify for dealer plates and we have to have a hearing which costs.

JERRY RONIG-Automobile Dealers Association -- We worked very closely with the division and our people are comfortable with this increase and we think it is needed.

NO OPPONENTS

DAY-Things are pretty well covered. The dealers are getting a pretty fair shake on this and they go along with it.

KROTP-How many cars does a used dealer have to sell to qualify for used dealer plates? DAY-Five.

HB 179-Sponsored by Rep. Lund -- This repeals the performance budgetting system since none of you read it I would like to repeal this. This was passed in 1975 as the priority budgetting system -- we have found that it just isn't worth that much. There's a man here that seems to like this kind of report.

JOHN FITZPATRICK-Deputy Director-Budget & Program Planning -- He showed the Governor's budget and the priority section of it (see Attachments #1 & 2). The format used is required by statute and this is what we are trying to get rid of. Originally, the priority system was enacted as a pilot program -- zero based budgetting and program planning -- priority was an amalgamation and was intended to get us away from line item budgetting. In other states, zero based budgetting hasn't performed very well. It creates a paper blizzard -- each program fills out 7 different forms for their budget and then these forms are put together and soon you have 56 forms which then multiply even more. Priority budgetting is not compatible with the remainder of the state budget. The thing that really hurts it is that it isn't used by the Legislature or its staff. We only found one instance where priority budgetting was used by an appropriations subcommittee in '77 -- so why have it. We want to go back to one standard budget format. In repealing these sections we are only trying to get rid of all of the zero based concepts. We will still have performance planning.

NO OPPONENTS

DAY-Then I'll just stand by for questions. It will mean far less paper and as a member of the appropriations subcommittee I can tell you that we don't use this system -- we still use line item.

HB 571-Sponsored by Rep. Menahan -- This does a little rearranging of the physical therapy licensing, etc. There are many proponents, so I will turn it over to them.

JEROME CONNOLLY-President, Montana Physical Therapists' Association -- We have two changes to make -- see Attachment #3 for amendments. They were intended to be made through the Legislative Council, but it didn't work. We feel these place the bill in a stronger legal position. Mr. Connolly presented written testimony, see Attachment #4.

VINCE HUNTINGTON-Physical Therapist, Billings -- I practice in Billings, and support this bill. New applicants have had great problems with the registration procedures in Montana. The Board of Medical Examiners haven't really understood our problems. Statistics from our national association show that 48 states have physical therapist on their boards and we don't have any.

JOE LUCKMAN-Physical Therapist, Great Falls -- We have had problems with the school systems. The new laws relative to deinstitutionalism of handicapped people -- the law states that all city and county schools will have physical therapist practitioners, but we have no guidelines for this nor do we have deucation for consultation of this sort. This gets to be a real problem in the rural areas, and right now we feel at times that we are operating outside the law.

SISTER JAN DELANEY-Physical Therapist, Billings -- I feel this bill would upgrade the practice. I took the exam in '76 and there were five of us. The exam was not proctored or monitored. I feel this bill would help.

DIANE ALLEN-Physical Therapist, Billings -- She submitted written testimony, see Attachment #5.

BARBARA REED-Physical Therapist, Butte -- She also submitted written testimony, see Attachment #6.

BILL LARKY-Montana Hospital Association -- We feel this is a good bill and urge your support.

JERRY LINDOFF-Montana Medical Association -- We urge your support.

RAYMOND BRAZIER-Physical Therapist, Conrad -- Supportive personnel are not addressed in the current law at all. SRS came out with an interpretation in '77 saying that we couldn't use supportive personnel. The Board of Medical Examiners gave us some OK for this. This bill gives us legal authority to use supportive personnel.

NO OPPONENTS

BRAND-We have to have a letter of intent for this. PISTORIA-I have received letters from people opposed to this, can you address this? CONNOLLY-Our amendments address the problems that some people had about selection of the board so that non-chapter members would be represented. BOB ANDONICK-I was part of the opposition, and I think we have resolved our differences and we no longer have any opposition and would like to see it passed with the amendments. We have a budget that was drawn up by the Department of Professional and Occupational Licensing -- the actual cost projected for each license is a $20 renewal fee annually. We didn't feel that we

(ANTONICK continued)-needed an increase above $10 and would require no appropriation. McBRIDE-One of the powers of the Board is to take "any other disciplinary action", what does this refer to? CONNOLLY-One of the reasons for that is that it keeps the cost of a board down because some times these things can be handled by a letter of discipline rather than a court action and therefore avoid costs. The only problem we have had with third party payers was with SRS. BARDANOUVE-You have an effective date --- was your budget for the biennium? CONNOLLY-It is an annual budget. The bill has two effective dates - effective upon passage, but from a financial standpoint it is retroactive to January 1, 1979 to handle the fees that have come up. We don't request an appropriation. BARDANOUVE-The licenses don't give you the right to spend the money. You have a budgetary problem. You won't be able to operate until July 1 unless you ask for a supplemental appropriation. You could strike Section 21.

HB 656-Sponsored by Rep. Quilici -- The current law causes those with 25 years of service to choose retirement. This bill would have the effect of causing those who have this kind of service to continue to work. When they get 25 years, they have no incentive to continue because their percentage drops from 2% to 1%. I think there should be some incentive to keep them on -- these guys are experienced and it saves money that would have to be used to train new people. I urge DO PASS.

COL. JOE SOL-Montana Highway Patrol -- This was designed to solve a problem and it was our intent to have no financial impact on the system. Because of the complexity of law enforcement it takes more and more training. With this, their retirement time is reduced and therefore have an actual savings. The administrator differs with me on this. We assume these people will leave at 25 years but they assume the people will stay. 16 out of 25 retirees in the last five years have left before 25 years. The officer who will go over 25 years is the one who starts early. We have 28 officers eligible for retirement -- 4 of which are very highly skilled people and we would regret loosing them due to this thing.

LARRY NACHTSHEIM-Administrator, PERS -- See Attachment #7 for the majority of his testimony. Our actuary assumes that some 25% would stay past 25 years of service. About 40% of the people on our roles had 25 years of service. We would recommend an amendment to provide funding. 1.52% of salary would be needed.

TOM SCHNEIDER-MPEA -- We support this because I think it is important to retain people with experience. I think experience is the real key in law enforcement because they are just beginning to become well rounded officers. These guys don't have Social Security. If they voted in SS, it would cost the state lots of money and if you compare that to this bill you are saving lots of money for the state. The gobs they go to are either covered by PERS or SS or Sheriffs' Retirement. I think it would be very wise to raise this and give them an incentive. The end savings would probably be greater than the original cost.

NO OPPONENTS

NACHTSHEIM-You can provide for the funding in two ways. The patrolmen can pay it as well as the state. Part of the cost is being passed to the retirement system by the patrol. McPRIDE-Is it possible that you may not need the additional funding? NACHTSHEIM-Oh yes, these are assumptions projected over 40 years. We have a great number of men who have stayed on past 25 years. We figure about 10%

STATE ADMINISTRATION COMMITTEE
House of Representatives

February 17, 1979

Chairman Brand called the hearing to order at 9:05 a.m., Rep.'s Porter and Hayne were excused, otherwise everybody was there.

HB 664-Sponsored by Rep. Scully -- This was introduced at the request of the Highway Patrol. I think there are a few people in law enforcement who are required to do so much in their daily job and yet aren't paid well for it. This increases their benefits.

MAJOR DUANE TOOLEY-Montana Highway Patrol -- This bill provides a cost of living increase based upon the salary of a newly confirmed patrolman. Those who retired prior to '77 would never receive less than a new patrolman. This is the same bill that came through for the municipal police officers. This only deals with those already retired.

LARRY NACHTSHEIM-PERS Administrator -- The cost for this would be $222,247 in FY '81 based on the base salary of a new patrolmen as of July, 1979. Assuming a 6% growth the cost would be $235,581 for FY '81. The actuary advised that the cost will average $310,000 a year over the next 15 years as the patrolmen die off.

TOM SCHNEIDER-MPEA Executive Director -- I feel sort of strange--this is the 30th time I have been before you in 35 days. This bill doesn't cover anyone except those who retired prior to July, 1977. They went without Social Security and are the only employees in our retirement systems who don't, so they aren't getting a cost of living increase anywhere else. The funding is provided in the bill so it wouldn't put a strain on the fund.

JO DRISCOLL-Insurance Commissioner -- We take issue on the funding. We collect premium taxes but they go directly into the General Fund, so this money must come out of there. We did add one FTE for these allocations.

AL RYEPSON-Retired Patrolman -- This is a problem with retired patrolmen because they have a frozen system. We urge DO PASS.

HOWARD ELLIS-Representative, Helena -- You should be aware that I have a bill in to meld the Game Wardens and the Fish and Game funds together -- it proposes a two year management study to revamp the systems and I think this sort of thing is part of the problem.

NO OPPONENTS

JOHNSTON-The fees from the licensing -- don't they go into the General Fund? TOOLEY-Yes, some goes into earmarked revenue but most go to the General Fund. MAGONE-They mentioned prior to July 1, 1977 -- did the patrolmen after this have a different formula? TOOLEY-No, this just gives a cut off date. BENNETT-Are ther any real acute problems right now? RYEPSON-The patrol has had a pretty healthy system all along and I would hate to see our system handicapped because of the condition of other systems. McBRIDE-Alot of systems have come in for increases, and they seem to turn into unfunded liabilities. NACHTSHEIM-When the patrol started in '45, they created a system then and were given 15% of the drivers

BILL CONNELL-Administrator, Personnel Division -- With HB 481, the problem is that a bill has been passed and signed giving these people alot more responsibility. I understand their problem but I can't support the bill; so we will sit down with them and determine what we can do to help that. So, we recommend that you pass the bill -- but if you kill 481 we can't do so we can deal with it as much as possible. I will do what I can relative to the new work they have to do. They don't really know if they will need new people for the federal law and if so, they will go through the proper channels.

BARDANOUVE-This bill would really hang over the heads of the Personnel Division, and I think they (Board of Oil & Gas Conservation) should have to negotiate their own problems with the Personnel Division.

SMITH moved HB 481 DO PASS, which carried on a roll call vote 11 - 8.

HB 571-ZELOTARSKI presented the amendments and the statement of intent, see Attachments #8 and 8A.

BARDANOUVE-We have been putting public members on all boards to avoid a closed shop and keep the people who are being regulated from regulating themselves.
AZZARA-How about amending Section 3 to say that at least one member not be a physical therapist; strike "each", put "two", and a new subsection (3) saying that the third member of the board shall be a resident of Montana for at least 3 years but not a practicing physical therapist.

Motion carried with Sales and Bennett voting NO.

KANDUCH moved HB 571 AS AMENDED DO PASS, which carried on a roll call vote 16 - 3.

HB 208-SMITH moved DO PASS, which carried.

ZELOTARSKI-There are some housekeeping amendments on HB 571 that should be taken care of - Page 3, line 11 - the internal reference is wrong - 35 should be 37.

FREA moved to reconsider HB 571, which carried.

SALES moved the amendments (there was also an amendment to correct the spelling of aids), which carried.

KANDUCH moved AS AMENDED DO PASS on HB 571, which carried.

HB 558-BRAND-The amendments Bardanouve submitted have been worked out with the city police - (1) page 2, line 17 - restore stricken language; (2) page 3, lines 1 - 18 -- strike new language and restore stricken language; (3) page 3, line 24 through page 4, line 3 - strike all of subsection (4) and insert new language as shown on Attachment #9 and 9A.

BARDANOUVE-These will make the system sound provided that in the future no benefits are added without adding the funding.

BARDANOUVE moved the amendments, which carried with Brand voting NO.

46th LEGISLATIVE SESSION

COMMITTEE ON Public Health, Welfare & Safety

HOUSE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
22	1-18-79	1-26-79	2-02-79				1-31-79		
40	1-15-79	1-19-79	1-24-79					1-22-79	
59	1-22-79	1-31-79	2-02-79				1-31-79		
112	2-06-79	2-28-79	3-16-79					3-16-79	
166	2-16-79	3-02-79	3-03-79				3-02-79		
196	2-22-79	3-09-79	3-13-79					3-12-79	
233	2-22-79	3-07-79	3-08-79				3-07-79		
234	2-20-79	3-07-79	3-08-79				3-07-79		
235	2-20-79	3-05-79	3-08-79					3-07-79	
238	2-08-79	2-28-79	3-04-79					3-02-79	
310	2-10-79	3-02-79	3-03-79						3-02-79
316	2-28-79	3-14-79	3-14-79				3-14-79		
342	2-22-79	3-09-79	3-13-79					3-12-79	
463	2-21-79	3-09-79	3-09-79				3-09-79		
505	2-16-79	3-02-79	3-03-79				3-02-79		
571	2-28-79	3-14-79	3-14-79					3-14-79	
578	2-22-79	3-16-79	3-16-79				3-16-79		

[illegible] Concurrent, House Bills, and Resolutions

MINUTES OF THE MEETING

PUBLIC HEALTH, WELFARE & SAFETY COMMITTEE

March 14, 1979

The twenty-fifth meeting of the Senate Public Health, Welfare and Safety Committee met in Room 410 of the State Capitol Building at 1:00 p.m. on March 14, 1979.

ROLL CALL: All Committee members were present.

CONSIDERATION OF HOUSE BILL 714: House Bill 714 is an act to amend Section 37-11-201, MCA, by removing the mandatory requirement of an annual mailing of a list of physical therapist licensees

Representative Keyser, sponsor of House Bill 714, said that the Department of Occupational and Professional Licensing will upon request mail their list of physical therapists in the state. Now they also mail this list to all the hospitals and to all persons licensed to practice medicine in the state annually. This bill will stop that annual mailing and will save money.

Jerry Loendorf, Montana Medical Association, said that they were asked to put this bill out. It takes away the mandatory requirements. It is his understanding that people just throw the list away and then request a copy when they need it.

Chairman Rasmussen asked the Committee members if they have any questions. Senator Olson asked how many mailings go out now. Representative Keyser said he would guess that there are about 1000.

The hearing was closed on House Bill 714 at 1:05 p.m.

ACTION ON HOUSE BILL 714: Senator Ryan moved that House Bill 714 BE CONCURRED IN. The motion passed unanimously. Senator Ryan will carry the bill on the Senate floor.

CONSIDERATION OF HOUSE BILL 571: House Bill 571 is an act creating a Board of Physical Therapy Examiners and generally revising the physical therapy laws.

Witnesses supporting House Bill 571:

Jerome Connolly, Montana Physical Therapist Association
Vince Huntington, Physical Therapist
Bob Antonick, Physical Therapist
Sister Jan Delaney, Physical Therapist
Joe Lundman, Physical Therapist

Bob Michale, Physical Therapist
Tom Meagher, Physical Therapist
Bill Leary, Montana Hospital Association
Jerry Loendorf, Montana Medical Association

Representative Menahan, sponsor of House Bill 571, said he would let members of the physical therapists explain the bill.

Jerome Connolly, president of the Montana Physical Therapist Association, said that in the House committee they introduced four minor amendments to the bill. The bill was heard one week prior to transmittal date, and they feel this might be the reason the amendments did not get on the bill. He introduced the amendments to the Committee. On page 2, lines 17 through 22, a change is requested so that members on the board would more broadly represent all Montana physical therapists and not be tied to the Montana Physical Therapist Association. On page 18, lines 13 and 14, and lines 17 and 18, and on page 19, lines 6 through 9 strike "in the judgement of the board." The rational for these amendments is that they feel this would put the board in a stronger legal position. The judgement would not be made by a three-member board. See Attachment "A" for Mr. Connolly's testimony.

Vince Huntington, physical therapist from Billings, spoke on the difficulties in the current licensing procedure. See Attachment "B."

Bob Antonick, physical therapist from Helena, spoke on the problems of accreditation. See Attachment "C."

Sister Jan Delaney, part-time physical therapist, spoke in support of House Bill 571. She thinks the bill would allow for a more professional application of the exam. This is currently not the case. When she took the exam it was not monitored. In the middle of the exam they were asked to change rooms and were put in a very small room with distractions which did not allow for optimum space or conditions for an exam. She thinks that with this bill they would be able to up-grade the profession.

Joe Lundman, physical therapist from Great Falls, spoke on the problems they have under current law in complying with Montana law requiring deinstitutionalization and mainstreaming of handicapped individuals into the public educational environment. See Attachment "D."

Bob Michale, physical therapist, spoke on the aspect of peer review. See Attachment "E."

Tom Meager, Helena, spoke on the problem of supportive personnel. In 1977, it was called to their attention by the Department of Social and Rehabilitation Services that there is no provision for the use of supportive personnel in their current act. SRS issued an opinion at that time that services that weren't performed personally by the physical therapist would be ineligible for payment for those services. It was only after they sought a ruling that they were able to continue practice with the help of their supportive personnel. This bill will give them a law recognizing the supportive groups.

Bill Leary, Montana Hospital Association, said they think this bill is a considerable improvement over the current Montana law. They feel that as employers of a significant number of physical therapists that they want the protection that they are employing qualified personnel.

Jerry Loendorf, Montana Medical Association, said that the medical association supports this bill..

Chairman Rasmussen asked the Committee members if they have any questions. Senator Olson said he noticed the board would not have a lay member on it. Mr. Connolly said they are trying to keep the cost of their board to a minimum, and with a three-member board they could do this. With a public member they feel they would need more members. Senator Norman questioned that with the number of physical therapists and with the fees set in the bill that they would have enough money to operate. Mr. Connolly went through the budget prepared by Ed Carney. See Attachment "F." Senator Norman asked why on page 11, lines 16 through 20 were stricken. Mr. Connolly said the definition of physical therapist and the scope of practice has been defined in the law elsewhere. They felt that this was redundant. Senator Norman said that on page 17 the bill discusses foreign-trained physical therapists. He wanted to know if they have given any thought to a problem addressed in a bill by the medical examiners as to the ability to speak English. Mr. Huntington said the clause on the foreign-trained physical therapist dealt more with the Canadians. He thinks the English requirement would have to be worked out in the rules and regulations. Senator Norman said that on page 5, line 9, it says "not liable." He doesn't think

that putting it in a bill will exclude any civil action. Senator Himsl said that on page 8, lines 7, 8, and 9 call for audit outside of the regular audit cycle that has been established. Mr. Connolly said he understands the sunset cycle is on a six-year basis. He doesn't know why the date was picked. Senator Himsl asked about the part on page 15 that lets the board authorize a license without an examination if it wants to. Mr. Connolly said that this clause deals with reciprocity and those individuals that can be licensed without examination are licensed in another state. Senator Himsl asked about their qualifications. Mr. Connolly said that on page 16 it provides that the requiements in that state must be equal to or greater than in this state. Senator Himsl referred to the powers of the board and said he thinks the board should have an appeal power.

The hearing on House Bill 571 was closed at 1:40 p.m. See Exhibit "A" for supporting letters.

CONSIDERATION OF HOUSE BILL 316: House Bill 316 is an act to require food service establishments to distinguish between hamburger and imitation hamburger in advertisement of products for sale and to advertise the list of ingredients in imitation hamburger.

Representative Hand, sponsor of House Bill 316, said this bill is an attempt to address the use of unsuspected extenders in hamburger by requiring that those who serve such things declare that they are doing it. He said this is an amendment to the Montana Food and Drug Act. He went through the changes in the bill and said that the brand new section on page 12 is really the crux of the bill.

Vern Sloulin, Department of Health and Environmental Sciences, said his bureau would be involved in the administering of this amendment to the Act. He said that Montana has one of the highest standards of hamburger in the nation. There is only one other state that allows less fat than Montana does. This state allows 20 percent. They now collect about 300 samples per year from meat markets to determine the content. With this amendment they would take some of these samples from restaurants and drive-ins to determine that what they are selling is really hamburger. He said they have done a little of this in the past for the owners of the restaurants and have found in some cases that the restaurant owner has purchased other than pure hamburger at the cost of pure hamburger.

need. Senator Lensink asked if they were audited this past year. Representative Shelden said the audit committee did have a look at them. There was to be another bill to take a look at all the boards, and that bill was killed. Therefore, they had to do something else to get them reviewed.

The hearing on House Bill 810 was closed at 2:05 p.m.

ACTION ON HOUSE BILL 810: Senator Lensink moved that House Bill 810 BE CONCURRED IN. The motion passed unanimously. Senator Himsl will carry the bill on the Senate floor.

ACTION ON HOUSE BILL 571: Senator Himsl said that in reviewing the boards there are some boards in which the members have not very well exercised their perogatives of a board. They excuse themselves from taking any real action until the people are found guilty by someone else. Therefore, he is not in favor of incorporating the one amendment proposed. He thinks that if the board has the power to license it should also have the power to revoke the license and then let the person appeal. Senator Rasmussen moved that the amendments presented by the Montana Physical Therapists Association which relates to having members other than association members involved in the board be adopted. The motion passed. A discussion followed on whether the board should include a lay member. It was decided to leave the board at three and not include a lay member. Chairman Rasmussen asked if this has to go through Appropriations. Senator Himsl said this is mandated money. Most of these boards need $10,000. A discussion followed on the budget prepared by Mr. Carney. Senator Himsl asked Mr. Huntington if he didn't think that a better approach would be to get a couple of their members on the Board of Examiners. He is afraid that this board would end up like a lot of other boards who are too broke to do anything. Mr. Huntington said that the Board of Medical Examiners is in favor of having them go. It takes them about three years to get on their agenda, and they can't get with them to get any action. He does not think that they are about to let a physical therapist on their board.

Senator Lensink moved that House Bill 571 BE CONCURRED IN. A roll call vote was taken. The motion passed five to two. Senator Lensink will carry the bill on the Senate floor.

ACTION ON HOUSE BILL 316: Senator Norman moved that House Bill 316 BE CONCURRED IN. Senator Himsl said he has a problem on the practical application and how this is going to be policed. A roll call vote was taken. The motion passed by a vote of five to two. Senator Norman will carry the bill on the Senate floor.

SENATE COMMITTEE PUBLIC HEALTH, WELFARE & SAFETY

Date 2-14-79 Bill No. [illegible] Time [illegible]

NAME	YES	NO
Senator Matt V. Himsl		✓
Senator Everett R. Lensink	✓	
Senator Bill Norman	✓	
Senator Bob Palmer	✓	
Senator Patrick Ryan	✓	
Senator S. A. Olson, Vice-Chairman		
Senator A. T. Rasmussen, Chairman		

Secretary

Chairman

Motion: [illegible]

(include enough information on motion--put with yellow copy of committee report.)

ATTACHMENT "A"

MONTANA CHAPTER

OF THE

AMERICAN PHYSICAL THERAPY ASSOCIATION

PHYSICAL THERAPISTS HAVE BEEN LICENSED IN MONTANA SINCE 1961. NEARLY TWO YEARS AGO, OUR ORGANIZATION, THE MONTANA CHAPTER OF THE AMERICAN PHYSICAL THERAPY ASSOCIATION WAS NOTIFIED BY THE AMERICAN PHYSICAL THERAPY ASSOCIATION (APTA) THAT THE PHYSICAL THERAPIST PRACTICE ACT OF MONTANA HAD BEEN REVIEWED AND CLASSIFIED BY THE SECTION ON LICENSURE AND REGULATION. THE CALSSIFICATION "PERMISSIVE" WAS GIVEN TO THIS PRESENT LAW AND IT WAS INDICATED THAT A LAW OF THIS NATURE PROVIDES LITTLE, IF ANY, PROTECTION FOR THE PUBLIC.

BASED ON THIS INFORMATION AND ON THE FACT THAT THE APTA IS NOW THE ACCREDITING BODY FOR PHYSICAL THERAPY AND PHYSICAL THERAPIST ASSISTANT SCHOOLS, THE MONTANA CHAPTER INITIATED EFFORTS A YEAR AND A HALF AGO TO PROPOSE THIS LEGISLATION YOU HAVE BEFORE YOUR COMMITTEE.

THESE EFFORTS INCLUDED INPUT FROM VIRTUALLY EVERY DISCIPLINE OF PHYSICAL THERAPY AND WAS NOT LIMITED TO MEMBERSHIP PARTICIPATION. BUT RATHER, SEVERAL CONCEPTS PROPOSED BY NON-CHAPTER MEMBERS WERE IMPLEMENTED INTO THIS LEGISLATION.

THERE HAS BEEN SOME ARGUMENT RAISED WITHIN OUR PROFESSION THAT THIS BILL DOES NOT SUFFICIENTLY PROTECT THE INTERESTS OF THE PHYSICAL THERAPIST. INDEED, AS THE COMMITTEE IS AWARE, LEGISLATION OF THIS TYPE IS DESIGNED TO PROTECT THE PUBLIC AND NOT THE INTERESTS OF THE PROFESSIONAL LICENSEE. WE BELIEVE THAT THIS BILL CONTAINS MANY MEASURES WHICH PROVIDE FOR THE DESIRED PUBLIC PROTECTION.

IN 1961 WHEN LICENSURE FOR PHYSICAL THERAPISTS WAS IMPLEMENTED IN MONTANA, THERE WAS APPROXIMATELY TWENTY-FIVE (25) PHYSICAL THERAPISTS IN THE STATE. IT WAS LOGICAL AT THE TIME TO PLACE THE REGULATION OF THIS PROFESSION UNDER THE PURVIEW OF THE BOARD OF MEDICAL EXAMINERS.

THERE ARE NOW ONE HUNDRED SIXTY (160) PHYSICAL THERAPISTS LICENSED IN MONTANA, AND IN ORDER FOR THE PUBLIC TO BE PROVIDED OPTIMAL PROTECTION, A SEPARATE BOARD OF PHYSICAL THERAPY EXAMINERS IS NECESSARY.

SUCH A BOARD WOULD DEAL SOLELY, SPECIFICALLY, AND COMPREHENSIVELY WITH THE ISSUES RELATIVE TO THE PRACTICE OF PHYSICAL THERAPY IN MONTANA. IT WOULD SELECT, ADMINISTER AND PROCTOR THE EXAMINATION. IT WOULD INSURE THAT THE EXAM IS ADMINISTERED IN A PROFESSIONAL AND RESPONSIBLE MANNER, WHICH THE CHAPTER HAS REASON TO BELIEVE IS NOT THE CASE PRESENTLY.

WHILE THE MONTANA CHAPTER HAS BEEN INSTRUMENTAL IN THE DEVELOPMENT OF THIS BILL, IT MUST BE EMPHASIZED THAT A BOARD OF PHYSICAL THERAPY EXAMINERS WILL BE IN NO WAY ASSOCIATED WITH THE MONTANA CHAPTER. AND THAT MEMBERSHIP IN THE MONTANA CHAPTER IS NOT A PREREQUISITE TO QUALIFYING TO BE A MEMBER OF THE BOARD OF PHYSICAL THERAPY EXAMINERS.

THROUGHOUT THE EIGHTEEN (18) YEAR COURSE OF ADMINISTERING THE PHYSICAL THERAPIST PRACTICE ACT OF MONTANA, THERE HAVE BEEN NO LICENSES REVOKED OR SUSPENDED, AND AS NEAR AS CAN BE ASCERTAINED ONLY ONE APPLICANT HAS BEEN DENIED LICENSURE IN THE PAST SEVEN YEARS.

THIS IS LARGELY DUE TO THE FACT THAT MONTANA HAS, BY FAR, THE LOWEST EXAMINATION PASSING SCORE IN THE NATION, WHICH ALLOWS A PERSON TO GAIN LICENSURE TO PRACTICE PHYSICAL THERAPY.

THIS INDEED HAS FAR-REACHING IMPLICATIONS. WITH THE POSSIBILITY OF A FULLY ACCREDITED PHYSICAL THERAPY PROGRAM AT THE UNIVERSITY OF MONTANA, GRADUATES OF SUCH A PROGRAM WOULD UNDOUBTEDLY TAKE THE LICENSURE EXAMINATION IN MONTANA. SINCE MONTANA ENJOYS RECIPROCITY WITH FORTY-SEVEN (47) OTHER STATES, NOT ONLY DOES THIS JEOPARDIZE THE PROTECTION OF THE MONTANA PUBLIC, BUT OF MOST OF THE NATION AS WELL. THE REVISIONS CONTAINED IN THIS BILL ARE NECESSARY TO INSURE THE PUBLIC THAT THE INDIVIDUALS LICENSED TO PRACTICE PHYSICAL THERAPY HAVE MET STRICT REQUIREMENTS AND QUALIFICATIONS.

IN 1981, THE BOARD OF MEDICAL EXAMINERS WILL BE REVIEWED AND AUDITED IN ACCORDANCE WITH THE SUNSET LAW. THE ADMINISTRATION OF THE PHYSICAL THERAPIST PRACTICE ACT WILL BE REVIEWED SEPARATELY BUT IN CONJUNCTION WITH THE OVERALL AUDIT.

GIVEN THE AFOREMENTIONED STATISTICS, THE AUDIT WILL UNDOUBTEDLY REVEAL THAT ADMINISTRATION OF THE PHYSICAL THERAPIST PRACTICE ACT UNDER THE PRESENT ARRANGEMENT IS NOT PROVIDING ADEQUATE PROTECTION OF THE PUBLIC. IT IS FOR THIS REASON, THAT A SEPARATE BOARD OF PHYSICAL THERAPY EXAMINERS IS NECESSARY. THE EVENTUAL AUDIT IN 1985 OF THE NEWLY CREATED BOARD OF PHYSICAL THERAPY EXAMINERS, WE FEEL, WILL REVEAL THAT ADEQUATE PUBLIC PROTECTION WILL HAVE BEEN PROVIDED.

IT SHOULD BE NOTED THAT PHYSICAL THERAPY IS PRESENTLY A LICENSED PROFESSION IN MONTANA AND THAT THERE IS A PRACTICE ACT INFORCE. AND THAT THERE IS A BOARD WHICH ADMINISTERS THIS PRACTICE ACT AND REGUALTES THE PROFESSION. THIS PROPOSED BILL ONLY MOVES THIS JURISDICTION TO ANOTHER, MORE EFFECTIVE CHANNEL.

ASIDE FROM CREATING A BOARD OF PHYSICAL THERAPY EXAMINERS, THIS BILL CONTAINS SEVERAL OTHER IMPORTANT ASPECTS AND THESE ARE SIGNIFICANT CHANGES FROM THE PRESENT LAW:

1. THE DEFINITION OF PHYSICAL THERAPY, GROSSLY OUTDATED IN THE PRESENT LAW, HAS BEEN EXPANDED TO REFLECT THE CHANGES WHICH HAVE OCCURRED IN PHYSICAL THERAPY PRACTICE AND EDUCATION IN THE PAST EIGHTEEN (18) YEARS.

2. THE PHYSICAL THERAPIST ASSISTANT IS DEFINED AND INCLUDED AS A RECOGNIZED ENTITY AND A GRADUATE OF AN ACCREDITED CURRICULUM. SINCE THESE INDIVIDUALS WORK UNDER THE SUPERVISION OF THE LICENSED PHYSICAL THERAPIST, NO LICENSURE FOR THE ASSISTANT IS BEING SOUGHT.

3. THE PHYSICAL THERAPY AIDE IS IDENTIFIED AND DEFINED AND JOB RESPONSIBILITIES DELINEATED.

4. THE CHANGE IN THE ACCREDITING AGENCY FOR PHYSICAL THERAPY SCHOOLS FROM THE AMERICAN MEDICAL ASSOCIATION TO THE AMERICAN PHYSICAL THERAPY ASSOCIATION IS REFLECTED.

5. THE FOREIGN-TRAINED PHYSICAL THERAPIST IS IDENTIFIED AND THE PROCEDURE FOR GAINING LICENSURE IS OUTLINED.

6. PROVISIONS FOR REVOCATION OR SUSPENSION OF LICENSE HAVE BEEN MADE. THE PRESENT LAW PROVIDES ONLY FOR REFUSAL TO RENEW A LICENSE. THIS MEANS THAT, UNDER THE PRESENT PRACTICE ACT, A LICENSED PHYSICAL THERAPIST WHO IS CONVICTED OF A CRIME OR FRAUDULENT ACTIVITY IN JANUARY, FOR EXAMPLE, COULD CONTINUE TO PRACTICE FOR NEARLY A YEAR BEFORE APPROPRIATE DISCIPLINARY ACTION COULD BE TAKEN.

7. PROVISIONS FOR LESSER DISCIPLINARY ACTION HAVE ALSO BEEN INCLUDED.

THE MONTANA CHAPTER FEELS STRONGLY THAT THESE AFOREMENTIONED CHANGES ARE ESSENTIAL IN ORDER TO PROVIDE ADEQUATE PROTECTION OF THE PUBLIC. AND WE THANK THIS COMMITTEE FOR ITS CONSCIENTIOUS DELIBERATION OF THIS BILL AND URGE ADOPTION OF A "DO PASS" RECOMMENDATION.

ATTACHMENT "B"

LICENSING PROCEDURE

I FEEL THE CURRENT LICENSING PROCEDURE IS AWKWARD, AND THE SOURCE OF MANY COMPLAINTS BY PHYSICAL THERAPISTS ATTEMPTING TO GAIN LICENSURE IN MONTANA. THE DIFFICULTY LIES IN THE TENUOUS PAPERWORK JUNGLE THAT ACCOMPANIES THE PROCESS. THE PRESENT PROCESS, IN FACT, TENDS TO FREQUENTLY PROVIDE NEW THERAPISTS MOVING INTO MONTANA WITH THE ALTERNATIVE OF ILLEGALLY PRACTICING WITHOUT A LICENSE UNTIL THE PROCESS IS COMPLETED, OR LOSE THEIR JOBS AND/OR GO UP TO THREE MONTHS WITHOUT A SOURCE OF INCOME.

I HAVE PERSONALLY, AS HAS MR. CONNOLLY, MET WITH THE BOARD OF MEDICAL EXAMINERS AND WRITTEN SEVERAL LETTERS IN AN ATTEMPT TO IMPROVE THIS SITUATION. WHILE WE HAVE SOME RESPONSE AND IMPROVEMENT, THE MAJOR PROBLEMS CONTINUE.

I PERSONALLY DON'T FEEL THAT THE BOARD OF MEDICAL EXAMINERS HAS THE TIME OR THE EMPATHY TO EFFECTIVELY DEAL WITH THE PROBLEMS ARISING IN OUR PROFESSION.

A SURVEY FORWARDED TO US FROM THE NATIONAL OFFICES OF THE AMERICAN PHYSICAL THERAPY ASSOCIATION, REVEALS THAT THROUGHOUT THE UNITED STATES, 48 STATES HAVE PHYSICAL THERAPISTS ON THEIR LICENSING BOARDS, 19 OF WHICH HAVE BOARDS COMPOSED IN THEIR ENTIRETY OF PHYSICAL THERAPISTS AS A SEPARATE BOARD.

OUR PRESENT POSITION OF NO REPRESENTATION ON OUR LICENSING BOARD PLACES MONTANA PHYSICAL THERAPISTS IN A UNIQUELY UNDESIREABLE POSITION WHEN COMPARED TO THE NATIONAL STANDARD.

I STRONGLY URGE YOUR ASSISTANCE IN HELPING THE MONTANA PHYSICAL THERAPISTS RAISE THE LEVEL OF OUR STANDARDS FOR LICENSURE AND REGULATION TO A LEVEL MORE IN LINE WITH THE NATIONAL STANDARDS.

ATTACHMENT "C"

ACCREDITATION

THE PRESENT PRACTICE ACT PROVIDES THAT ONLY THOSE PHYSICAL THERAPISTS WHO ARE GRADUATES OF SCHOOLS ACCREDITED BY THE AMERICAN MEDICAL ASSOCIATION ARE ELIGIBLE FOR LICENSURE IN MONTANA.

NEWLY ACCREDITED PHYSICAL THERAPY SCHOOLS ARE NOW ACCREDITED BY THE AMERICAN PHYSICAL THERAPY ASSOCIATION.

THERE IS A STRONG POSSIBILITY THAT A FULLY ACCREDITED PHYSICAL THERAPY PROGRAM WILL BE INITIATED SOON AT THE UNIVERSITY OF MONTANA. THIS PROGRAM WILL BE ACCREDITED BY THE AMERICAN PHYSICAL THERAPY ASSOCIATION.

THIS MEANS THAT, UNDER THE PRESENT PRACTICE ACT, GRADUATES OF SUCH A UNIVERSITY OF MONTANA PROGRAM (AND OTHER NEWLY ACCREDITED PHYSICAL THERAPY SCHOOLS) WILL NOT BE ELIGIBLE FOR LICENSURE IN MONTANA.

HB 571 PASSAGE IS ESSENTIAL FOR THIS ACCREDITATION PROBLEM TO BE SOLVED.

ATTACHMENT "D"

MAINSTREAMING

FEDERAL LAW AND MONTANA LAW HAVE REQUIRED DE-INSTITUTIONALIZATION AND THE MAINSTREAMING OF HANDICAPPED INDIVIDUALS INTO THE PUBLIC EDUCATIONAL ENVIRONMENT.

THESE LAWS REQUIRE THAT PHYSICAL THERAPISTS, AND OTHER PRACTITIONERS, MUST BE AVAILABLE IN THE EDUCATIONAL SETTING. THE PRESENT PRACTICE ACT DOES NOT RECOGNIZE THE PRACTICE OF PHYSICAL THERAPY IN THIS SETTING.

IF PHYSICAL THERAPISTS ARE TO BE INSTRUMENTAL IN ACHIEVING THE DESIRED GOALS IN THE DE-INSTITUTIONALIZATION PROGRAM, REVISION OF THE PRESENT PHYSICAL THERAPY LICENSING LAW IS ESSENTIAL.

HB 571 ACHIEVES THOSE ESSENTIAL REVISIONS.

ATTACHMENT "E"

PEER REVIEW

FEDERAL STATUTE (PL 92-603) HAS MADE THE PROVISION FOR A PROCESS OF PEER REVIEW IN THE HEALTH CARE INDUSTRY. AS CLINICIANS IN THE MEDICAL FIELD, PHYSICAL THERAPISTS ARE INCLUDED IN THE PEER REVIEW PROCESS UNDER A SECTION IN THAT PUBLIC LAW REGULATING ALLIED HEALTH WORKERS.

AT PRESENT, WITH THE MONTANA FOUNDATION DOING PEER REVIEW ACTIVITIES, AND THE BOARD OF MEDICAL EXAMINERS PROVIDING LEGAL SANCTIONS FOR ACTIONS RECOMMENDED BY THE MONTANA FOUNDATION, THE THERAPISTS ARE NOT INVOLVED IN OUR OWN PEER REVIEW PROCESS. WHAT IS HAPPENING THEN, IS NOT PEER REVIEW, BUT A REVIEW OF PHYSICAL THERAPISTS BY PHYSICIANS.

WE FEEL THAT WITH THE IMMINENT APPROACH OF NATIONAL HEALTH INSURANCE, MORE PEER REVIEW THAN EVER WILL BE ENCOURAGED OR DEMANDED BY THE FEDERAL GOVERNMENT. WE, AS PHYSICAL THERAPISTS, WOULD LIKE TO BE IN A POSITION TO CONFORM AND COMPLY WITH THESE DEMANDS BY BEING THE LEGAL HEARING BODY FOR PHYSICAL THERAPISTS IN MONTANA, WITH SANCTIONS INCLUDED IN THE LAW TO ALLOW US TO ACT WHEN AND WHERE IT IS APPROPRIATE.

WE FEEL THAT THIS BILL (HB 571) ACCOMPLISHES THESE ENDS.

ATTACHMENT "D"

STATE OF MONTANA

DEPARTMENT OF PROFESSIONAL & OCCUPATIONAL LICENSING

HELENA, MONTANA 59601

THOMAS L. JUDGE
GOVERNOR

ED CARN
DIRECTOR
LALONDE BUILDI
(406) 449-37

January 15, 1979

To: Thomas K. Meagher, R.P.T., Chairman
Special Committee on Practice Act Revision
Montana Chapter of the American Physical Therapy Assn.
104 East 6th Avenue
Helena, Mt. 59601

From: Ed Carney

Re: Proposed Legislation on Physical Therapy

As you know, I have had the opportunity to view the proposed changes in the present Physical Therapy Act and the creation of a board to handle physical therapy licensing and regulation.

The licensing of physical therapists was enacted in 1961 and very little change in the act has taken place since that date. I beli the revisions and update of the law are in order. The creation of a board with a separate earmarked revenue account should allow mor time to be expended on this essential element of health care and remove the duty from the Medical Examiners. It should prove to b in the public interest.

March 15, 1979

SENATE STANDING COMMITTEE REPORT
(Public Health, Welfare & Safety)

That House Bill No. 571 be amended as follows:

1. Page 2, line 18.
Following: "office"
Insert: "a nominating committee comprised of members and non-members of"

STATEMENT OF INTENT RE: HB 571

House Bill 571 creates a Board of Physical Therapists. The board would be allowed rulemaking authority.

It is the intent of the legislature that any rules adopted by the board be limited to:

1. establishing minimum state requirements and educational standards for those persons practicing physical therapy in Montana;

2. assuring physicians practicing in any branch of medicine, hospitals, and employing agencies that the persons practicing physical therapy are qualified; and

3. protecting persons needing physical therapy from fraudulent physical therapists by establishing licensing requirements which ensure that only competent physical therapists practice in Montana.

First adopted by the HOUSE COMMITTEE ON STATE ADMINISTRATION on February 19, 1979.

HB 571

HOUSE BILL NO. 571

INTRODUCED BY MENAHAN

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A BOARD OF PHYSICAL THERAPY EXAMINERS AND GENERALLY REVISING THE PHYSICAL THERAPY LAWS; AMENDING SECTIONS 2-8-103, 37-11-101, 37-11-103, 37-11-201, 37-11-202, 37-11-301, 37-11-303, 37-11-307 THROUGH 37-11-309, AND 37-11-321, MCA; ~~AND PROVIDING AN EFFECTIVE DATE~~."

WHEREAS, the practice of physical therapy within the state of Montana is a privilege granted by legislative authority and is not a right of individuals; and

WHEREAS, it is necessary and in the best interests of the health, safety, and welfare of the people of Montana to provide laws covering the granting of licenses and their regulation so that the public may be protected from the unprofessional, unauthorized, or unqualified practice of physical therapy and to license only competent physical therapists to practice physical therapy.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Board of physical therapy examiners. (1) There is a board of physical therapy examiners.

(2) The board consists of three members appointed by the governor, upon the recommendation of the Montana chapter of the American physical therapy association, for a term of 3 years.

(3) Each member must have been a resident of Montana and a practicing physical therapist for the 3 years preceding appointment to the board, but need not be a member of the Montana chapter of the American physical therapy association.

(4) Within 30 days following [the effective date of this act], the governor shall make initial appointments to the board of physical therapy examiners. He shall appoint one member each to hold office for terms of 1 year, 2 years, and 3 years, respectively. At the end of each member's appointed term, a member shall be appointed for a full 3-year term.

(5) Ninety days prior to the end of the board member's term of office A NOMINATING COMMITTEE COMPRISED OF MEMBERS AND NONMEMBERS OF the Montana chapter of the American physical therapy association shall submit to the governor a list of individuals qualified to serve as a member of the board. The list shall contain not less than three times the number of candidates needed to fill the vacancies.

(6) A vacancy on the board must be filled in the same manner as the original appointment, except that the names of

qualified individuals must be submitted to the governor upon notice of a pending vacancy or within 10 days after a vacancy occurs. These appointments may only be made for the unexpired portions of the term.

(7) No member may be appointed for more than two consecutive terms.

(8) The governor may remove any board member for negligence in performance of any duty required by law and for incompetence or unprofessional or dishonorable conduct.

(9) A board member is not liable to civil action for any act performed in good faith in the execution of the duties required by Title 35 31, chapter 11.

(10) The board shall provide for its organizational structure by rule, which shall include a chairman, vice-chairman, and secretary-treasurer.

(11) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121.

Section 2. Section 2-8-103, MCA, is amended to read:

"2-8-103. Agencies to terminate. (1) The following agencies shall terminate on July 1, 1979:

(a) board of abstracters, department of professional and occupational licensing, created by 2-15-1643;

(b) board of public accountants, department of professional and occupational licensing, created by 2-15-1641;

(c) board of architects, department of professional and occupational licensing, created by 2-15-1651;

(d) state banking board, department of business regulation, created by 2-15-1803;

(e) state electrical board, department of professional and occupational licensing, created by 2-15-1654;

(f) board of professional engineers and land surveyors, department of professional and occupational licensing, created by 2-15-1653;

(g) office of commissioner of insurance and the insurance department, state auditor's office, created by 2-15-1902 and 2-15-1903;

(h) office of the investment commissioner, state auditor's office, created by 2-15-1901;

(i) board of landscape architects, department of professional and occupational licensing, created by 2-15-1652;

(j) board of county printing, department of community affairs, created by 2-15-1102;

(k) board of plumbers, department of professional and occupational licensing, created by 2-15-1655;

(l) board of real estate, department of professional and occupational licensing, created by 2-15-1642;

(m) state board of warm air heating, ventilation, and air conditioning, department of professional and

occupational licensing, created by 2-15-1656;

(n) board of institutions, department of institutions, created by 2-15-2303.

(2) The following agencies shall terminate on July 1, 1981:

(a) commission for human rights, department of labor and industry, created by 2-15-1706;

(b) board of athletics, department of professional and occupational licensing, created by 2-15-1661;

(c) board of barbers, department of professional and occupational licensing, created by 2-15-1625;

(d) board of chiropractors, department of professional and occupational licensing, created by 2-15-1613;

(e) board of cosmetologists, department of professional and occupational licensing, created by 2-15-1626;

(f) board of dentists, department of professional and occupational licensing, created by 2-15-1606;

(g) board of hearing aid dispensers, department of professional and occupational licensing, created by 2-15-1616;

(h) board of massage therapists, department of professional and occupational licensing, created by 2-15-1627;

(i) Montana state board of medical examiners,

department of professional and occupational licensing, created by 2-15-1605;

(j) board of morticians, department of professional and occupational licensing, created by 2-15-1619;

(k) board of nursing, department of professional and occupational licensing, created by 2-15-1610;

(l) board of nursing home administrators, department of professional and occupational licensing, created by 2-15-1611;

(m) board of optometrists, department of professional and occupational licensing, created by 2-15-1612;

(n) board of osteopathic physicians, department of professional and occupational licensing, created by 2-15-1607;

(o) board of pharmacists, department of professional and occupational licensing, created by 2-15-1609;

(p) board of podiatry examiners, department of professional and occupational licensing, created by 2-15-1608;

(q) board of psychologists, department of professional and occupational licensing, created by 2-15-1617;

(r) board of radiologic technologists, department of professional and occupational licensing, created by 2-15-1614;

(s) board of speech pathologists and audiologists,

department of professional and occupational licensing, created by 2-15-1615;

(t) board of veterinarians, department of professional and occupational licensing, created by 2-15-1618;

(u) board of veterans' affairs, department of social and rehabilitation services, created by 2-15-2202.

(3) The following units of state government shall terminate on July 1, 1983:

(a) board of aeronautics, department of community affairs, created by 2-15-1103;

(b) state board of hail insurance, department of agriculture, created by 2-15-3003;

(c) board of horseracing, department of professional and occupational licensing, created by 2-15-1662;

(d) board of livestock, department of livestock, created by 2-15-3102;

(e) board of milk control, department of business regulation, created by 2-15-1802;

(f) board of oil and gas conservation, department of natural resources and conservation, created by 2-15-3303;

(g) Montana outfitters council, department of fish and game, created by 2-15-3403;

(h) public service commission, department of public service regulation, created by 69-1-102;

(i) board of sanitarians, department of professional

and occupational licensing, created by 2-15-1631;

(j) board of water and wastewater operators, department of health and environmental sciences, created by 2-15-2105;

(k) board of water well contractors, department of professional and occupational licensing, created by 2-15-1632.

(4) The following unit of state government shall terminate on July 1, 1985: board of physical therapy examiners, created by [section 1]."

Section 3. Section 37-11-101, MCA, is amended to read:

"37-11-101. Definitions. Unless the context requires otherwise, in this chapter the following definitions apply:

(1) "Physical therapy" means the evaluation, treatment, and instruction of ~~a body or mental condition of a person~~ human beings to detect, assess, prevent, correct, alleviate, and limit physical disability, bodily malfunction and pain, injury, and any bodily or mental conditions by the use of ~~the physical, chemical, and other properties of heat, light, water, electricity, massage, and therapeutic exercise, including physical rehabilitation~~ procedures therapeutic exercise and rehabilitative procedures for the purpose of preventing, correcting, or alleviating a physical or mental disability.

(2) "Physical therapist" or "physiotherapist" means a

person who practices physical therapy.

(3) "Physical therapy student" or "physical therapy intern" means an individual enrolled in an accredited physical therapy curriculum and who, as part of his professional, educational, and clinical training, is practicing in a physical therapy setting under the direction, guidance, and observation of a licensed physical therapist.

(4) "Physical therapy assistant" means a person who is a graduate of an accredited curriculum approved by the board and who assists a physical therapist in the practice of physical therapy and whose activities require an understanding of physical therapy.

(5) "Physical therapy aide" means a person who aides AIDS in the practice of physical therapy and whose activities require on-the-job training and supervision by a licensed physical therapist who must be available for periodic checks during any procedure or treatment involving a patient.

~~(3)~~(6) "Board" means the Montana--state board of ~~medical~~ physical therapy examiners provided for in ~~2-15-1605~~ [section 1].

~~(4)~~(7) "Department" means the department of professional and occupational licensing provided for in Title 2, chapter 15, part 16.

(8) "Hearing" means the adjudicative proceeding concerning the issuance, denial, suspension, or revocation of a license, after which the appropriate action toward an applicant or licensee is to be determined by the board."

NEW SECTION. Section 4. Physical therapy -- practiced under referral -- treatment. (1) Physical therapy is practiced under referral from physicians, osteopaths, dentists, and podiatrists and includes the administration, interpretation, and evaluation of tests and measurements of bodily functions and structures, the establishment and modification of treatment, and consultative, educational, and other advisory services, and instruction and supervision of supportive personnel.

(2) Treatment employs, for therapeutic effects, physical measures, activities and devices, for preventive and therapeutic purposes, exercises, rehabilitative procedures, massage, mobilization, and physical agents including but not limited to mechanical devices, heat, cold, air, light, water, electricity, and sound.

NEW SECTION. Section 5. Equivalent terms. "Physical therapy practitioner", "physical therapy specialist", "physiotherapy practitioner", or "manual therapists" are equivalent terms, and any derivation of the above or any letters implying the above are equivalent terms; any reference to any one of them in this chapter includes the

others but does not include certified corrective therapists or massage therapists.

NEW SECTION. Section 6. Supervision of physical therapist assistants. A physical therapist assistant must practice under the direct supervision of a licensed physical therapist who is responsible for and participates in a patient's care.

Section 7. Section 37-11-103, MCA, is amended to read:

"37-11-103. Restrictions on scope of practice. ~~(1)~~ Nothing in this chapter shall be construed as authorizing a physical therapist, whether licensed or not, to practice medicine, osteopathy, or chiropractic, dentistry, or podiatry; nor shall Title 37, chapter 11, be construed to limit or regulate any other business or profession or any services rendered or performed in connection with physical therapy.

~~(2)--The-use-of-roentgen-rays-and-radium-for-diagnostic and-therapeutic-purposes-and--the--use--of--electricity--for surgical---purposes,---including---cauterization,---are--not authorized-under-the-term-"physical-therapy"-as-used-in-this chapter.~~"

Section 8. Section 37-11-201, MCA, is amended to read:

"37-11-201. Rulemaking General powers -- rulemaking power -- records. (1) The board may:

(a) adopt rules to carry this chapter into effect; i

(b) grant, suspend, and revoke licenses;

(c) issue subpoenas requiring the attendance of witnesses or the production of books and papers; and

(d) take any other disciplinary action necessary to protect the public.

(2) The board shall:

(a) examine applicants for licenses twice a year at reasonable places and times determined by the board;

(b) review the qualifications of applicants who are approved for examination for licensure; and

(c) conduct written examinations that measure the qualifications of individual applicants along with any oral or practical examinations when determined by the board to be appropriate.

~~(2)~~(3) The department shall keep a record of the board's proceedings under this chapter and a register of persons licensed under it. The register shall show the name of every living licensed physical therapist, his last-known place of business, last-known place of residence, and the date and number of his license and certificate as a licensed physical therapist.

~~(3)~~(4) The department shall, during the month of April every year in which the renewal of licenses is required, compile a list of licensed physical therapists authorized to practice physical therapy in the state and shall mail, upon

request, a copy of that list to the superintendent of every known hospital and every person licensed to practice medicine and surgery in the state. An interested person in the state is entitled to obtain a copy of the list on application to the department and payment of an amount not in excess of the cost of the list so furnished.

(5) The department may change addresses and surnames on the licensee's records only on the specific written request by the individual licensee."

Section 9. Section 37-11-202, MCA, is amended to read:

"37-11-202. Investigation and report of violations. (1) The board shall:

(a) investigate every ~~supposed~~ alleged violation of this chapter coming to its notice; ~~and shall~~

(b) report to the proper authority all cases that, in the judgment of the board, warrant prosecution~~.~~;

(c) formulate a written complaint process for the use in reporting alleged violations;

(d) assist the proper county attorney or the attorney general in the prosecution of all persons who violate any provision of Title 37, chapter 11.

(2) The attorney general shall serve as attorney for the boards."

NEW SECTION. Section 10. Travel expense -- deposit of fees. (1) Each board member shall be reimbursed for travel

expenses as provided for in 2-18-501 through 2-18-503 for each day actually engaged in the duties of his office.

(2) All fees collected by the department shall be deposited in the earmarked revenue account for the use of the board, subject to 37-1-101(6). The department shall keep an accurate account of funds received and expenditures made from the account.

(3) The board of medical examiners shall transfer funds in the earmarked revenue account collected after January 1, 1979, which were derived from the examination and licensure or relicensure of physical therapists in this state to the earmarked account designated as the "physical therapist account".

Section 11. Section 37-11-301, MCA, is amended to read:

"37-11-301. Unauthorized representation as licensed therapist. A person who is not licensed under this chapter as a physical therapist or whose license has been suspended or revoked or whose license has lapsed and has not been revived who uses in connection with his name the words or letters "L.P.T.", "Licensed Physical Therapist", "P.I.", "Physical Therapist", "R.P.I.", "Registered Physical Therapist", or any other letters, words, or insignia indicating or implying that he is a licensed physical therapist or who in any way, orally or in writing or in

print or by sign, directly or by implication, represents himself as a physical therapist shall be guilty of a misdemeanor."

Section 12. Section 37-11-303, MCA, is amended to read:

"37-11-303. Qualifications of applicants for license. To be eligible for a license as a physical therapist, an applicant must:

(1) be of good moral character and at least 18 years of age;

(2) have graduated from a an accredited school of physical therapy approved by the council of medical education and hospitals of the American medical association board;

(3) either:

(a) pass to the satisfaction of the board an examination to determine his fitness for practice as a physical therapist; or

(b) be entitled to a license without examination under 37-11-307."

Section 13. Section 37-11-307, MCA, is amended to read:

"37-11-307. Applicants licensed in other states. The board may, in its discretion, authorize the department to register license as a physical therapist, without

examination, on the payment of the required fees, not to exceed $100, as established by the board, an applicant for license who is a physical therapist licensed under the laws of another state or territory if the requirements for a license for physical therapists in the state or territory in which the applicant was licensed were at the date of his license substantially equal to the requirements in force in this state. However, the board may require a written, oral, or practical examination."

Section 14. Section 37-11-308, MCA, is amended to read:

"37-11-308. Annual renewal of license -- fee. A licensed physical therapist shall, during January, apply to the department for a renewal of his license and pay a fee of $5 not to exceed $50 which shall be set by board rule. A license that is not renewed before April every year automatically lapses. The board may, in its discretion, revive and renew a lapsed license on the payment of all past unpaid renewal fees or a late renewal fee."

Section 15. Section 37-11-309, MCA, is amended to read:

"37-11-309. Temporary license. (1) On payment to the department of a fee of $10 not to exceed $100 which shall be set by board rule and the submission of a written application on forms provided by it, the department shall

issue, without examination, a temporary license to practice physical therapy in this state for a period not to exceed 1 year to a person who meets the qualifications set forth in 37-11-303, on submission by the person of evidence satisfactory to the board that he is in this state on a temporary basis to assist in a case of medical emergency or to engage in a special physical therapy project.

(2) On the submission of a written application on forms provided by it, the department shall issue a temporary license to a person who has applied for a license under this chapter and who is, in the judgment of the board, eligible to take the examination provided for in 37-11-303. This temporary license is available to an applicant only with respect to his first application for a license under 37-11-307, or to a foreign-trained physical therapist, and the license expires when the board makes a final determination with respect to the application."

NEW SECTION. Section 16. Foreign-trained applicants. The foreign-trained physical therapist applicant's transcripts will be evaluated by the board. The board will compare the applicant's transcript to the standards set by the American physical therapy association. If the applicant's professional education credit hours are approved by the board, and the school the applicant attended was approved by the American physical therapy association at the

time the applicant attended, the applicant is eligible for a temporary license prior to examination.

Section 17. Section 37-11-321, MCA, is amended to read:

"37-11-321. Refusal to issue or renew license. The board, after due notice and hearing, may refuse to license any applicant, and AND may refuse to renew, may suspend, may revoke, or take lesser disciplinary action on the license of any licensed person who:

(1) is habitually intoxicated or is addicted to the use of narcotic drugs;

(2) has been convicted of violating any state or federal narcotic law, subject to chapter 1, part 2 of this title;

(3) is, in the judgment of the board, guilty of immoral or unprofessional conduct as defined by board rule;

(4) has been convicted of any crime involving moral turpitude, subject to chapter 1, part 2 of this title;

(5) is guilty, in the judgment of the board, of gross negligence in his practice as a physical therapist;

(6) has obtained or attempted to obtain registration licensure by fraud or material misrepresentation;

(7) has been declared to be seriously mentally ill by a court of competent jurisdiction and has not thereafter been released from treatment and declared not to be

seriously mentally ill;

(8) has treated or undertaken to treat ailments of human beings otherwise than by physical therapy; or

~~(9) has undertaken to practice physical therapy independent of prescription from a person who holds an unlimited license to practice medicine and surgery in Montana and other states and territories.~~

(9) is guilty, in the judgement of the board, of conduct unbecoming a person licensed as a physical therapist or of conduct detrimental to the best interests of the public; or

(10) has practiced physical therapy beyond the scope and limitation of his training and education."

NEW SECTION. Section 18. Display of license. Each licensee shall display his original license or an official duplicate issued by the department and a renewal certificate in a conspicuous place in the principal office where he practices physical therapy. A reproduction displayed in lieu of the above is not authorized unless such THE reproduction is signed and notarized by a notary public.

Section 19. Saving clause. A license to practice physical therapy issued prior to the effective date of this act remains in effect for the period of its validity but upon expiration may be renewed only in accordance with this act.

Section 20. Codification. (1) Section 1 is intended to be codified as an integral part of Title 2, chapter 15, part 16, and the provisions contained in Title 2, chapter 15, part 16, apply to section 1.

(2) Sections 4 through 6, 10, 16, and 18 are intended to be codified as an integral part of Title 37, chapter 11, and the provisions contained in Title 37, chapter 11, apply to sections 4 through 6, 10, 16, and 18.

~~Section 21. Effective date. This act is effective on passage and approval.~~

-End-